



Veterinary Surgeons Act 1936

Current as at 13 February 2020

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Queensland

Veterinary Surgeons Act 1936

Contents

		Page
Part 1	Preliminary	
1	Short title	5
2	Definitions	5
2A	Meaning of veterinary science	5
3	Mutual recognition legislation not affected	6
Part 2	Veterinary Surgeons Board of Queensland	
Division 1	Establishment and powers	
4	Establishment of board	6
4A	Board's relationship with the State	6
4B	Powers of board	7
Division 2	Membership	
4C	Membership	7
4D	Chairperson and deputy chairperson	7
4E	Qualifications for membership	8
4F	Vacation of office	8
4G	Term of appointment	8
5	Filling vacancy in office of board member	9
5A	Excluded matter for Corporations legislation	9
6	Chairperson is executive officer of board	10
Division 3	Election of members	
8	Board to hold elections of members	10
9	Power of Governor in Council on failure to elect	10
Division 4	Board business	
10	Conduct of business	11
11	Quorum	11
12	Presiding at meetings	11
12A	Conduct of meetings	11

Contents

12B	Minutes	12
12C	Disclosure of interests	12
Division 5	Other provisions about the board	
13	Appointment of deputy member	14
14	Officers	14
15	Funds of board	15
Part 2A	Tribunal proceedings	
15A	Jurisdiction	15
15B	Constitution of tribunal	16
15C	Matters tribunal must consider in making particular decisions ..	16
15D	Costs	17
Part 3	The registers	
16	Keeping registers	17
16A	Arrangements between board and interstate registering authorities	19
17	Annual fee	20
Part 4	Veterinary surgeons and veterinary specialists	
Division 1	Registration of veterinary surgeons and veterinary specialists, and approvals to practise veterinary science	
18	Registration of veterinary surgeons	21
18A	Performance of certain acts by approved persons	23
18B	Deemed registration as veterinary surgeon	25
19	Application for registration	25
19A	Provisional registration	26
19B	Registration for limited period	27
19C	Registration of veterinary specialists	28
19CA	Deemed registration of veterinary specialists	28
19D	Veterinary specialties	29
19E	Special registration	29
20	Certificates of registration	30
21	Removal from register and suspension	30
Division 2	Matters about conduct of veterinary surgeons	
22	Investigation by board	31
22A	Board may take disciplinary action	32
22B	Board to give notice of its intention to proceed pursuant to s 22A	33
22C	Board may apply to tribunal for an order to remove the name of a veterinary surgeon from the register	34

22D	Where veterinary surgeon medically unfit	34
22E	Orders of tribunal for misconduct in a professional respect	35
22F	Misconduct in a professional respect	36
22FA	Board to notify interstate registering authorities of disciplinary action	38
Division 3	Miscellaneous	
22H	Review of particular decisions	38
23	Surrender of certificate	39
24	Restoration of name	40
Part 4A	Approvals to use premises as veterinary premises	
Division 1	Preliminary	
25	Definition for pt 4A	40
Division 2	Obtaining approvals	
25A	Applying for approval	41
25B	Additional information for application	41
25C	Deciding application	41
25D	Grant of application	42
25E	Refusal of application	42
25F	Criteria for decision	42
Division 3	Conditions	
25G	Conditions of approvals	43
Division 4	Amendment, suspension or cancellation of approvals	
25H	Amendment—grounds	44
25I	Suspension or cancellation—grounds	44
25J	Amendment, suspension or cancellation—procedure	45
25K	Notice of amendment, suspension or cancellation	46
Part 4B	Offence provisions	
25L	Conducting veterinary practice	46
25M	Persons who must not practise veterinary science	46
25N	Allowing or directing person who is not a veterinary surgeon to practise veterinary science	47
25O	Directing veterinary surgeon to practise veterinary science	47
25P	Claims about being a veterinary surgeon	47
25Q	Using titles etc.	48
26	Notice about change in contact information	48
27	Veterinary surgeon to provide emergency contact details	48
Part 5	Miscellaneous	

Contents

29A	Control of veterinary premises	49
29B	Allowances and expenses	49
29C	Registrar must give emergency contact details to chief executive	49
30	Penalty for forging registration	50
32	Evidence	51
33	Board may sue	51
33A	Reports	52
33C	Veterinary surgeon to produce records	52
33D	Power of entry etc.	53
33E	Authorisation of inspectors to carry out certain tests	56
34	Savings	57
35	Penalties	57
36	Penalties etc. to be paid into board's funds	57
36A	Approval of forms	57
37	Regulation-making power	57
Part 6	Transitional provisions	
Division 1	Provisions for Primary Industries Legislation Amendment Act 2001	
38	Continuation of board membership	59
39	Continuing effect of approvals	60
Division 2	Provision for Primary Industries Legislation Amendment Act 2006	
40	Particular proceedings before the tribunal	60
Schedule	Dictionary	62

Veterinary Surgeons Act 1936

An Act relating to the qualifications and registration of veterinary surgeons and the regulation and control of the practice of veterinary science, and for other purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Veterinary Surgeons Act 1936*.

2 Definitions

The dictionary in the schedule defines particular words used in this Act.

2A Meaning of *veterinary science*

- (1) *Veterinary science* means the science of veterinary surgery or veterinary medicine.
- (2) *Veterinary science* includes the following—
 - (a) diagnosing diseases in, and injuries to, animals, including, for example, testing animals for diagnostic purposes;
 - (b) giving advice based on a diagnosis under paragraph (a);
 - (c) medical or surgical treatment of animals;
 - (d) performing surgical operations on animals;
 - (e) administering anaesthetics to animals;
 - (f) signing or issuing certificates relating to the description, health, diagnosis or treatment of animals.

- (3) However, *veterinary science* does not include an act done for animal husbandry or animal dentistry prescribed under a regulation not to be veterinary science.

3 Mutual recognition legislation not affected

This Act does not affect the *Mutual Recognition (Queensland) Act 1992* or the *Trans-Tasman Mutual Recognition (Queensland) Act 2003*.

Part 2 Veterinary Surgeons Board of Queensland

Division 1 Establishment and powers

4 Establishment of board

- (1) The Veterinary Surgeons Board of Queensland is established.
- (2) The board—
- (a) is a body corporate; and
 - (b) has a common seal; and
 - (c) may sue and be sued in its corporate name.

4A Board's relationship with the State

- (1) The board—
- (a) represents the State; and
 - (b) is part of the department for the *Financial Accountability Act 2009*.
- (2) Without limiting subsection (1)(a), the board has all the privileges and immunities of the State.

4B Powers of board

For performing its functions, the board has all the powers of an individual, and may, for example, do the following—

- (a) enter into contracts;
- (b) acquire, hold and dispose of property;
- (c) appoint agents and attorneys;
- (d) engage consultants;
- (e) charge for services and facilities it supplies;
- (f) do anything else necessary or convenient to be done for, or in connection with, the performance of its functions.

Division 2 Membership

4C Membership

- (1) The board consists of the following members—
 - (a) a senior officer of the department nominated by the Minister;
 - (b) 2 persons elected under section 8;
 - (c) 3 other persons nominated by the Minister.
- (2) Each member mentioned in subsection (1)(a) or (b), and 2 of the members mentioned in subsection (1)(c), must be eligible veterinary surgeons.
- (3) Each member is to be appointed by the Governor in Council.

4D Chairperson and deputy chairperson

- (1) The chairperson of the board is the member mentioned in section 4C(1)(a).
- (2) The deputy chairperson of the board is the member appointed by the Minister as the deputy chairperson.

- (3) The deputy chairperson must be an eligible veterinary surgeon.

4E Qualifications for membership

A person is not qualified to be or to continue as a member if the person—

- (a) is an undischarged bankrupt or, as a debtor, takes advantage of the laws in force for the time being relating to bankrupt or insolvent debtors; or
- (b) is convicted of an indictable offence, whether on indictment or summarily; or
- (c) is convicted of an offence against this Act; or
- (d) is incapable of performing the duties of a member because of physical or mental incapacity.

4F Vacation of office

- (1) The office of a member becomes vacant if the member—
 - (a) dies; or
 - (b) resigns office by written notice given to the Minister; or
 - (c) is absent without the board's permission from 3 consecutive meetings of the board of which proper notice was given; or
 - (d) ceases to be qualified to be a member.
- (2) If the member is a veterinary surgeon, the member also ceases to hold office if the member ceases to be a veterinary surgeon.

4G Term of appointment

- (1) A member, other than the chairperson, is to be appointed for a term of not more than 3 years.

-
- (2) However, if at the end of the member's term of appointment a person has not been appointed to replace the member, the member's term does not end until—
- (a) the member has been reappointed; or
 - (b) if the member is not reappointed—another person has been appointed to replace the member.

5 Filling vacancy in office of board member

- (1) Any extraordinary vacancy which at any time occurs in the office of member by death, removal, resignation, or otherwise shall be filled as soon as may be by the appointment of another member; but a member appointed to fill any such vacancy shall be deemed to hold the office of the member's predecessor, and shall hold office only so long as the member's predecessor would have done had no such vacancy occurred.
- (2) In the case of an elected member, a vacancy shall be filled by the appointment as prescribed of a person recommended by the Minister from a panel of 3 persons nominated by the Queensland division of the Australian Veterinary Association Limited.
- (3) If that association fails within 14 days after a request in writing in that behalf by the Minister to submit a nomination, the Minister may without that nomination recommend to the Governor in Council a person who is in the opinion of the Minister a suitable person, as a member of the board, and the person so recommended shall be deemed to be duly nominated.

5A Excluded matter for Corporations legislation

The board is declared to be an excluded matter for the Corporations Act, section 5F, in relation to the following provisions of the Corporations Act—

- (a) parts 2D.1 and 2D.6;
- (b) chapters 2K and 2L;

(c) parts 5.7, 5.7B, 5.9 and 5B.2.

6 Chairperson is executive officer of board

- (1) The chairperson is the executive officer of the board.
- (2) Every appointment, and every order, notice, certificate, or other document of the board relating to the execution of this Act is sufficiently authenticated if signed by the chairperson or any 2 members of the board.

Division 3 Election of members

8 Board to hold elections of members

- (1) There must be an election of the elected members of the board.
- (2) Each election after the first election must be held on the day that the board by resolution appoints.
- (3) The day appointed by the board under subsection (2) must be within the period that is more than 6 months, but not more than 1 year, before the term of appointment of the elected members of the board ends.
- (4) The registrar shall be the returning officer at any election held under this Act, and each eligible veterinary surgeon shall be entitled to vote and shall have 1 vote only.
- (5) Notice of every election, the form of ballot paper and method of voting thereat, and the time and manner of nomination of every candidate for elective membership shall be as prescribed.

9 Power of Governor in Council on failure to elect

If at the time prescribed or appointed for holding an election—

- (a) no election is held; or

- (b) no candidates are nominated; or
- (c) the number of candidates nominated is less than the number of candidates to be elected;

the Governor in Council may appoint a qualified person or a sufficient number of such persons to be a member or members of the board, as the case may require, to fill the vacancies which ought to be filled at such election, and the person or persons so appointed shall be deemed to have been duly elected at such election.

Division 4 Board business

10 Conduct of business

Subject to this Act, the board may conduct its business, including its meetings, in the way it considers appropriate.

11 Quorum

A quorum for a meeting of the board is 3 members.

12 Presiding at meetings

- (1) The chairperson is to preside at all meetings of the board at which the chairperson is present.
- (2) If the chairperson is absent from a board meeting, but the deputy chairperson is present, the deputy chairperson is to preside.
- (3) If the chairperson and deputy chairperson are both absent from a board meeting or the offices are vacant, a member chosen by the members present is to preside.

12A Conduct of meetings

- (1) A question at a board meeting is decided by a majority of the votes of the members present.

[s 12B]

- (2) Each member present has a vote on each question to be decided and, if the votes are equal, the member presiding also has a casting vote.
- (3) A member present at the meeting may abstain from voting.
- (4) The board may hold meetings, or allow members to take part in its meetings, by using any technology allowing reasonably contemporaneous and continuous communication between members taking part in the meeting.

Example of technology allowing reasonably contemporaneous and continuous communication—

teleconferencing

- (5) A member who takes part in a board meeting under subsection (4) is taken to be present at the meeting.
- (6) A resolution is validly made by the board, even if it is not passed at a board meeting, if—
 - (a) a majority of the board members gives written agreement to the resolution; and
 - (b) notice of the resolution is given under procedures approved by the board.

12B Minutes

- (1) The board must keep—
 - (a) minutes of its meetings; and
 - (b) a record of any resolutions made under section 12A(6).
- (2) Subsection (3) applies if a resolution is passed at a board meeting by a majority of the members present.
- (3) If asked by a member who voted against the passing of the resolution, the board must ensure the minutes of the meeting record the member voted against the resolution.

12C Disclosure of interests

- (1) This section applies to a board member if—

- (a) the member has an interest in a matter being considered, or about to be considered, by the board; and
 - (b) the interest could conflict with the proper performance of the member's duties about the consideration of the matter.
- (2) As soon as practicable after the relevant facts come to the member's knowledge, the member must disclose the nature of the interest to a meeting of the board.
Maximum penalty—40 penalty units.
- (3) Unless the board otherwise directs, the member must not—
- (a) be present when the board considers the matter; or
 - (b) take part in a decision of the board about the matter.
- Maximum penalty—40 penalty units.
- (4) The member must not be present when the board is considering whether to give a direction under subsection (3).
Maximum penalty—40 penalty units.
- (5) If there is another member who must, under subsection (2), also disclose an interest in the matter, the other person must not—
- (a) be present when the board is considering whether to give a direction under subsection (3); or
 - (b) take part in making the decision about giving the direction.
- Maximum penalty—40 penalty units.
- (6) If—
- (a) because of this section, a board member is not present at a board meeting for considering or deciding a matter, or for considering or deciding whether to give a direction under subsection (3); and
 - (b) there would be a quorum if the member were present;

the remaining members present are a quorum of the board for considering or deciding the matter, or for considering or deciding whether to give the direction, at the meeting.

- (7) A disclosure under subsection (2) must be recorded in the board's minutes.
- (8) If the member is a veterinary surgeon, the member does not have a direct or indirect interest in a matter if the interest arises merely because the member is a veterinary surgeon.

Division 5 Other provisions about the board

13 Appointment of deputy member

- (1) If a member is likely from any cause to be absent from meetings of the board for more than 4 months, the Governor in Council may appoint a deputy to act for such member during the member's absence.
- (1A) In appointing a deputy to act during the absence of an elected member, the Governor in Council may have regard to the nomination of the Queensland division of the Australian Veterinary Association Limited.
- (2) A deputy shall have the same powers, rights, and duties as the member in whose place the deputy is appointed.

14 Officers

- (1) There is to be a registrar of the board.
- (2) The registrar is employed under the *Public Service Act 2008*.
- (3) The board may appoint such other officers as the board thinks necessary to give effect to this Act.
- (4) Subject to any applicable award of an industrial court, tribunal or authority or any industrial agreement, persons appointed pursuant to subsection (2) shall be paid such remuneration and shall be employed under such conditions as are fixed by the board.

15 Funds of board

- (1) All moneys received by the board or the registrar, including fees and penalties, shall be paid into the funds of the board.
- (2) The remuneration of the registrar and other officers appointed under this Act and all other expenses of and incidental to the administration of this Act, shall be paid by the board out of its funds.
- (2A) However, where such funds are insufficient for the purpose of the administration of this Act there may be made from the consolidated fund such payments to the funds of the board as the Governor in Council may deem necessary for such purpose, which payments are hereby appropriated for the purpose.
- (3) Any surplus moneys of the board which are not required for the purposes of subsection (2) may be expended by the board for the purposes of the advancement of veterinary science in such manner as it decides.

Part 2A Tribunal proceedings

15A Jurisdiction

The tribunal has jurisdiction—

- (a) to hear and decide any disciplinary proceedings involving allegations of misconduct in a professional respect referred by the board against any veterinary surgeon; and
- (b) to hear and decide any application made under section 22C; and
- (c) to hear and decide show cause proceedings brought under section 22D.

15B Constitution of tribunal

- (1) For a proceeding under section 15A, the tribunal is to be constituted by—
 - (a) 1 legally qualified member; and
 - (b) 2 other QCAT members who are veterinary surgeons.
- (2) The person mentioned in subsection (1)(a) is the presiding member for the proceedings.
- (3) In this section—

legally qualified member means a legally qualified member under the QCAT Act.

QCAT member means a member under the QCAT Act.

15C Matters tribunal must consider in making particular decisions

- (1) This section applies to the tribunal in making a decision about—
 - (a) a disciplinary proceeding alleging misconduct in a professional respect against a veterinary surgeon; or
 - (b) whether or not a veterinary surgeon's name should be removed from the register of veterinary surgeons because the veterinary surgeon is medically unfit to practise veterinary science.
- (2) In making its decision, the tribunal—
 - (a) must have regard to previous decisions about the veterinary surgeon made by any of the following—
 - (i) the tribunal if, in the opinion of the tribunal, the previous decision is relevant to the matter before it;
 - (ii) the board;
 - (iii) a committee; and
 - (b) may have regard to previous decisions about the veterinary surgeon made by a foreign disciplinary body.

(3) Subsection (2) does not limit the matters the tribunal may consider in making its decision.

(4) In this section—

committee means a committee of medical practitioners appointed under section 22D(1).

foreign disciplinary body means an entity, established under the law of another State or country, having functions similar to the functions of the board or tribunal under this Act.

15D Costs

(1) In a proceeding before it, the tribunal may make any decision about costs it considers appropriate.

(2) However, the costs allowable are only—

(a) the costs allowable under the QCAT Act; and

(b) if the board conducted an investigation of a matter before referring the matter for hearing by the tribunal—the cost to the board of conducting the investigation.

(3) Without limiting subsection (1), in making a decision about an order for costs, the tribunal—

(a) must take into consideration the cost of any investigation for the matter the subject of the proceeding; and

(b) must not take into consideration the amount of a penalty, if any, imposed on a veterinary surgeon in the proceeding.

Part 3 The registers

16 Keeping registers

(1) The registrar must keep—

(a) the register of veterinary surgeons, Queensland; and

- (b) the register of veterinary specialists, Queensland.
- (2) The registrar must—
 - (a) keep the registers in electronic form; and
 - (b) make the registers available for inspection on the board's website.
- (3) The registrar must enter in the register of veterinary surgeons, Queensland—
 - (a) the full names and the addresses of all persons registered as veterinary surgeons under this Act; and
 - (b) a description of the qualification in respect of which such registration is granted and the date on which the qualification was conferred; and
 - (c) in the case of a veterinary surgeon who is also registered as a veterinary specialist—a reference to such registration; and
 - (d) any other particulars, other than the emergency contact details for a veterinary surgeon, decided by the board.
- (4) The registrar must enter in the register of veterinary specialists, Queensland—
 - (a) the full names and the addresses of all veterinary surgeons registered as veterinary specialists under this Act; and
 - (b) a description of the qualification in respect of which such registration is granted and the date on which the qualification was conferred; and
 - (c) a reference to the registration of the veterinary specialist concerned as a veterinary surgeon; and
 - (d) any other particulars, other than the emergency contact details for a veterinary surgeon, decided by the board.
- (4A) Subsections (3) and (4) do not apply to veterinary practitioners.
- (5) A certificate by the registrar that any person is registered as a veterinary surgeon or a veterinary specialist and possesses the

qualifications therein named shall be prima facie evidence that the person named in such certificate is so registered and possesses the qualifications so mentioned and no other qualifications whatsoever; and a certificate by the registrar that the person named therein is not registered as a veterinary surgeon or, as the case may be, a veterinary specialist or does not possess certain qualifications shall be prima facie evidence that the person named therein is not so registered or does not possess the qualifications mentioned, as the case may be.

- (6) Any certificate purporting to be a certificate by the registrar as aforesaid shall be admissible in all proceedings whatsoever, and every court and justice shall take judicial notice of the signature of the registrar thereto.

16A Arrangements between board and interstate registering authorities

- (1) The board may enter into an arrangement with a registering authority of another State about access to information in a relevant register—
 - (a) for the purposes of establishing a national register of veterinary specialists, veterinary surgeons and veterinary practitioners; or
 - (b) for other purposes related to the recognition of veterinary specialists, veterinary surgeons or veterinary practitioners.
- (2) Without limiting subsection (1), an arrangement made under this section may involve the establishment of a national register of veterinary specialists, veterinary surgeons and veterinary practitioners by the Australasian Veterinary Boards Council Inc.
- (3) In this section—

relevant register means a register required to be kept by the registrar under section 16(1).

17 Annual fee

- (1) Save where exemption from payment thereof is provided for by the regulations, every veterinary surgeon shall pay to the registrar the prescribed annual fee and every veterinary surgeon who is a veterinary specialist shall pay to the registrar such additional annual fee as is prescribed.
- (2) Such annual fee (including in the case of a veterinary specialist the additional annual fee prescribed) shall be paid to the registrar by the veterinary surgeon concerned before 31 January in each year.
- (3) If a veterinary surgeon does not pay the prescribed annual fee before the time prescribed by subsection (2), the board may remove the veterinary surgeon's name from the register of veterinary surgeons.
- (4) If a veterinary specialist does not pay the prescribed additional annual fee before the time prescribed by subsection (2), the board may remove the veterinary specialist's name from the register of veterinary specialists.
- (5) If the name of any person is removed from a register under this section, the board may restore the person's name to that register on receiving payment of the fees prescribed under a regulation.
- (6) In this section—
veterinary surgeon does not include a veterinary practitioner.

Part 4 Veterinary surgeons and veterinary specialists

Division 1 Registration of veterinary surgeons and veterinary specialists, and approvals to practise veterinary science

18 Registration of veterinary surgeons

(1) A person shall be entitled to be registered as a veterinary surgeon if the person applies to the board in the approved form and satisfies the board that the person is of good fame and character and that—

(a) the person is—

(i) the holder of a degree or diploma in veterinary science of a university or other body; or

(ii) a member of a college or other body of veterinary surgeons;

in either case granted after due examination and recognised by the Governor in Council by regulation—

(iii) as entitling the holder or member, as the case may be, to practise veterinary science in the country in which the degree, diploma or membership was obtained; and

(iv) as furnishing sufficient evidence that the person possesses the skill, knowledge and ability efficiently to practise veterinary science in the State; or

(b) the person is the holder of a degree or diploma in veterinary science of a university or other body or a member of a college or other body of veterinary surgeons (other than a university, college or other body specified by regulation) in either case granted after due

examination and recognised by the Governor in Council by regulation—

- (i) as entitling the holder or member, as the case may be, to practise veterinary science in the country in which the degree, diploma or membership was obtained; and
- (ii) as not furnishing sufficient evidence that the person possesses the skill, knowledge and ability efficiently to practise veterinary science in the State without compliance with the further requirements specified in subsection (2);

and the person has complied with those further requirements.

- (1A) The board may deem a person to be the holder of a qualification referred to in subsection (1)(a)(i) or (ii) or (b)(i) or (ii) if the person satisfies the board that he or she is entitled to that qualification and that the same will be conferred upon the person in due course according to the practice of the university, college or other body in question.
- (2) The further requirements referred to in subsection (1)(b) are—
 - (a) that the person has been resident in the Commonwealth for the prescribed period;
 - (b) that the person has undergone and passed prescribed examinations conducted in the English language.
- (3) The board may refuse an application for registration as a veterinary surgeon if the board is satisfied the applicant is not medically fit to practise veterinary science.
- (3A) Also, if the board considers it appropriate in the circumstances, the board may refuse an application for registration as a veterinary surgeon if satisfied the applicant is not suitable to be registered because the applicant has, under the law of another State—
 - (a) applied for registration as a veterinary practitioner in that State and the application was refused by the registering authority for that State; or

- (b) been disqualified from applying, or is not entitled to apply, for registration as a veterinary practitioner in that State.
- (3B) Subsections (3) and (3A) apply despite subsection (1).
- (4) If the board decides to refuse an application for registration, the board must, as soon as practicable after making the decision, give the applicant an information notice for the decision.

18A Performance of certain acts by approved persons

- (1) The board may upon application grant approval to a person who possesses the qualifications specified in section 18(1)(b), but who has not complied with the further requirements specified in section 18(2), to do or perform any act, procedure, matter or thing the doing or performance of which forms part of the practice of veterinary science, in the course of the person's employment with and under the direction of a veterinary surgeon.
- (2) An application under this section—
 - (a) shall be in the approved form;
 - (b) shall contain the prescribed particulars;
 - (c) shall be accompanied by the prescribed fee;
 - (d) shall be supported by such evidence as the board requires.
- (3) The board shall consider each application made under this section and may grant or refuse it, and where the board grants an application it shall issue an approval.
- (3A) Also, if the board considers it appropriate in the circumstances, the board may refuse an application for registration as a veterinary surgeon if satisfied the applicant is not suitable to be registered because the applicant has, under the law of another State—

- (a) applied for registration as a veterinary practitioner in that State and the application was refused by the registering authority for that State; or
 - (b) been disqualified from applying, or is not entitled to apply, for registration as a veterinary practitioner in that State.
- (3B) Subsections (3) and (3A) apply despite subsection (1).
- (4) An approval granted and issued under this section—
- (a) shall be in the approved form;
 - (b) shall be subject to such terms, conditions or restrictions as are prescribed, and specified therein;
 - (c) shall remain in force—
 - (i) until the person to whom it was granted is registered under this Act as a veterinary surgeon; or
 - (ii) until the expiration of the period of 5 years commencing on the date on which the approval was granted;

whichever first occurs, and thereupon shall cease to be of any force or effect.

- (5) Where a person in respect of whom an approval is in force under this section—
- (a) is convicted in the State of an indictable offence, or elsewhere of an offence which, if committed in the State, would be an indictable offence;
 - (b) is convicted of an offence against this Act;
 - (c) is adjudged by the board after an inquiry to have engaged in misconduct which, if the person had been a veterinary surgeon, would be misconduct in a professional respect;
 - (d) contravenes or fails to comply with any term, condition or restriction subject to which the approval was granted;

the board may cancel the approval or suspend the approval for such period as the board decides.

- (6) Where an approval is suspended under subsection (5) that approval shall be of no force or effect during the period of suspension and shall remain in force only for the period during which it would have remained in force but for the suspension.

18B Deemed registration as veterinary surgeon

- (1) A person who is a veterinary practitioner is taken to be registered as a veterinary surgeon under this Act.
- (2) The person's registration as a veterinary surgeon is subject to the same conditions, limitations or restrictions that apply to the person's registration in another State as a veterinary practitioner.

19 Application for registration

- (1) Application to the board for registration as a veterinary surgeon or as a veterinary specialist shall—
 - (a) be made in the approved form; and
 - (b) be supported by such evidence as the board may require; and
 - (c) be accompanied by the prescribed fee, save where exemption from the payment thereof is provided for in the regulations.
- (2) The approved form must provide for the inclusion of the applicant's contact information.
- (3) To remove any doubt, it is declared that a person who is taken to be registered as a veterinary surgeon under section 18B is not required to—
 - (a) apply for registration under this section; or
 - (b) pay the prescribed fee mentioned in subsection (1)(c).
- (4) However, a person—

[s 19A]

- (a) who is taken to be registered as a veterinary surgeon under section 18B; and
- (b) whose principal place of residence will be in Queensland after the expiry of the person's registration in another State as a veterinary practitioner (the *interstate registration*); and
- (c) who intends to carry on practice as a veterinary surgeon in Queensland after the expiry of the interstate registration;

must apply for registration in Queensland before the expiry of the interstate registration.

19A Provisional registration

- (1) Where a person has applied to the board in the approved form to be registered as a veterinary surgeon and has paid the prescribed fee for registration, the chairperson or in the absence of the chairperson a member of the board authorised generally in that behalf by the board, upon being satisfied that such person is entitled to be registered as a veterinary surgeon, may ask the registrar to grant to the person a certificate in the approved form of provisional registration as a veterinary surgeon.
- (2) The registrar must comply with a request under subsection (1).
- (3) A person to whom a certificate of provisional registration as a veterinary surgeon has been granted shall be deemed to be registered under this Act as a veterinary surgeon and this Act shall apply to and with respect to that person accordingly—
 - (a) until the date stated in the certificate; or
 - (b) until such later date as is fixed by the board.
- (4) The date stated or the later date fixed by the board under subsection (3) must not in any case be more than 3 months from the date on which the certificate was granted.

- (5) Despite subsections (1) to (3), the board may at any time before the date stated or fixed, as the case may be, cancel a certificate granted and thereupon the person to whom it was granted shall cease to be deemed to be registered as a veterinary surgeon under this Act, and the cancellation shall, for the purposes of this Act, be deemed to be a refusal by the board of the application of that person to be registered as a veterinary surgeon.
- (6) If a person to whom a certificate of provisional registration has been granted becomes registered as a veterinary surgeon while that certificate is still in force, the person's registration shall, unless otherwise decided by the board, date from the granting of that certificate.

19B Registration for limited period

- (1) A person may apply to the board to be registered as a veterinary surgeon for a period not exceeding 30 days.
- (2) The application must be—
 - (a) in the approved form; and
 - (b) accompanied by the fee prescribed under a regulation.
- (3) The chairperson or an authorised member of the board may direct the registrar to register the person as a veterinary surgeon for not more than 30 days if satisfied the person is registered as a veterinary surgeon under a law of New Zealand.
- (4) The registrar must comply with the direction.
- (5) If the person's registration as a veterinary surgeon under a law of New Zealand is suspended or cancelled—
 - (a) the person's registration under subsection (3) ceases to have effect on the day the registration is suspended or cancelled; and
 - (b) the board must remove the person's name from the register of veterinary surgeons.

19C Registration of veterinary specialists

- (1) A veterinary surgeon shall be entitled to be registered as a veterinary specialist if the veterinary surgeon applies to the board in the approved form, pays the prescribed fee and satisfies the board that—
 - (a) he or she has gained special skill in the veterinary specialty with respect to which he or she applies to be registered; and
 - (b) the special skill was gained in practising veterinary science for a period of at least 5 years; and
 - (c) he or she is the holder of a degree, diploma or other qualification recognised by regulation that relates to that veterinary specialty.
- (2) The board may refer an application made under subsection (1) to the body known as the advisory committee on registration of veterinary specialists for the purpose of obtaining its advice in respect of the application.

19CA Deemed registration of veterinary specialists

- (1) This section applies to a veterinary practitioner—
 - (a) who is taken to be registered as a veterinary surgeon under section 18B; and
 - (b) whose registration as a veterinary practitioner in another State provides, by endorsement or otherwise, that the veterinary practitioner is qualified to practise as a veterinary specialist in that State; and
 - (c) whose qualification to practice as a veterinary specialist in the other State was gained after practising veterinary science for a period of at least 5 years.
- (2) The veterinary practitioner is taken to be registered as a veterinary specialist under this Act if the specialty in which the veterinary practitioner is qualified to practise in the other State is a veterinary specialty under this Act.

19D Veterinary specialties

The Governor in Council may, by regulation prescribe the branches of veterinary science which are to be veterinary specialties in respect of which a veterinary surgeon may be registered as a veterinary specialist.

19E Special registration

- (1) A person is entitled to special registration as a veterinary surgeon or a veterinary specialist if, on application made to the board by the person, the board is satisfied that the person—
 - (a) is entitled under a law in force in a place outside Australia to practise veterinary science in that place; and
 - (b) is seeking registration to engage in research or teaching in veterinary science at the University of Queensland or James Cook University; and
 - (c) has qualifications in veterinary science, and experience in the practice of veterinary science, appropriate for research or teaching in veterinary science.
- (2) The application must be—
 - (a) in writing in a form approved by the board; and
 - (b) accompanied by the fee prescribed under a regulation.
- (3) Special registration granted to a person under this section is subject to the following conditions—
 - (a) the person must pay to the registrar, for each 12 month period of registration, the fee prescribed under a regulation;
 - (b) the conditions prescribed under a regulation;
 - (c) any other conditions that are—
 - (i) not inconsistent with a condition mentioned in paragraph (a) or (b); and
 - (ii) decided by the board.

- (4) The board may remove from the register of veterinary surgeons the name of a person to whom special registration has been granted or suspend for such period as it thinks fit the special registration of a person where—
- (a) the board is of the opinion that the person has engaged in misconduct in a professional respect; or
 - (b) the person is convicted in the State of an indictable offence, or elsewhere of an offence which, if committed in the State, would be an indictable offence; or
 - (c) the person contravenes a condition of the registration.

20 Certificates of registration

The board may issue certificates of registration in the approved form.

21 Removal from register and suspension

- (1) The board may remove from the register of veterinary surgeons the name of any person—
- (a) who becomes incapable of performing the duties of a veterinary surgeon because of physical or mental incapacity; or
 - (b) whose name has been ordered to be so removed by the tribunal; or
 - (c) who has had his or her qualification for registration as a veterinary surgeon withdrawn or cancelled by the university, college or other body by which it was awarded; or
 - (d) who has requested the board in writing so to do; or
 - (e) who is deceased.
- (2) Where the name of a veterinary surgeon who is also a veterinary specialist is removed from the register of veterinary surgeons pursuant to subsection (1) the board shall also remove the name from the register of veterinary specialists.

- (3) The board may remove from the register of veterinary specialists the name of any person who has had his or her qualification for registration as a veterinary specialist withdrawn or cancelled by the university, college or other body by which it was awarded.
- (4) A suspension of the registration of a veterinary surgeon pursuant to this Act shall—
 - (a) while the suspension continues in force, have the same effect as a removal of the name of the suspended person from the register of veterinary surgeons under this Act;
 - (b) where the person is also a veterinary specialist and while the suspension continues in force, have the same effect as a removal of the name of the suspended person from the register of veterinary specialists under this Act.

Division 2 Matters about conduct of veterinary surgeons

22 Investigation by board

- (1) The board may of its own motion or upon the complaint of a person aggrieved cause an investigation to be made of the conduct of a veterinary surgeon.
- (2) A person aggrieved by the conduct of a veterinary surgeon who desires to complain of such conduct shall furnish to the board the person's complaint in writing.
- (2A) The board may require that the writing be in the form of a statutory declaration made pursuant to the *Oaths Act 1867*.
- (3) Where the board is of the opinion that there is sufficient evidence available with which to establish a prima facie case of misconduct in a professional respect against a veterinary surgeon it may proceed pursuant to section 22A or refer the matter, as provided under the QCAT Act, to the tribunal to hear and decide the matter.

- (4) The referral to the tribunal must be accompanied by sufficient particulars to inform the tribunal and the veterinary surgeon of the matter alleged against the veterinary surgeon.

22A Board may take disciplinary action

- (1) Subject to section 22B, where the board is of the opinion that a veterinary surgeon has engaged in misconduct in a professional respect, it may, instead of referring the matter to the tribunal—
 - (a) order the veterinary surgeon to pay to the board by way of penalty a specified sum of money in no case exceeding 10 penalty units; or
 - (b) admonish or reprimand the veterinary surgeon; or
 - (c) adjourn the matter of dealing with the veterinary surgeon pursuant to paragraph (a) or (b) for a period not exceeding 12 months.
- (2) An order made pursuant to subsection (1)(a) may contain a direction that the registration of the veterinary surgeon concerned be suspended for a specified period if the veterinary surgeon fails to pay the sum of money to the board within a specified time and, if the money is not paid within that time, his or her registration as a veterinary surgeon shall be suspended accordingly.
- (2A) Suspension pursuant to subsection (2) shall be in addition to and not in lieu of payment of the sum of money.
- (3) Where the board adjourns a matter for a period pursuant to subsection (1)(c) it shall reconsider the matter at the end of that period and, taking into consideration the conduct, demeanour and behaviour of the veterinary surgeon concerned during that period, proceed pursuant to subsection (1)(a) or (b) or take no further action.
- (4) Where the board deals with a veterinary surgeon pursuant to subsection (1) it may order the veterinary surgeon to pay to the board such costs as it thinks fit.

22B Board to give notice of its intention to proceed pursuant to s 22A

- (1) Before dealing with a veterinary surgeon pursuant to section 22A(1) the board shall give to the veterinary surgeon written notice of its intention so to do and shall state in the notice—
 - (a) the misconduct in a professional respect in which, in the opinion of the board, the veterinary surgeon has engaged; and
 - (b) that within the time specified in the notice, which time shall not be earlier than 14 days after the date of the notice, the veterinary surgeon may—
 - (i) make written representations to the board concerning the alleged misconduct; or
 - (ii) request the board to hear him or her in relation to the alleged misconduct; or
 - (iii) require the board to refer the matter to the tribunal to hear and decide the alleged misconduct.
- (2) Where a veterinary surgeon requests the board to hear him or her in relation to the alleged misconduct the board shall advise the veterinary surgeon of a time and place at which the veterinary surgeon may appear before the board and the veterinary surgeon may at that time and place appear before the board and himself or herself make representations to it concerning the alleged misconduct.
- (3) In dealing with a veterinary surgeon pursuant to section 22A(1), the board shall give due consideration and weight to any representations made by the veterinary surgeon concerned in relation to the alleged misconduct.
- (4) If the veterinary surgeon requires the board to refer the matter to the tribunal, the board must not act under section 22A in relation to the veterinary surgeon.

22C Board may apply to tribunal for an order to remove the name of a veterinary surgeon from the register

- (1) Where a veterinary surgeon is convicted in Queensland or elsewhere of an offence, whether indictable or not, which in the opinion of the board renders the veterinary surgeon unfit to practise veterinary science the board may apply to the tribunal for an order that the name of the veterinary surgeon be removed from the register of veterinary surgeons.
- (2) An application made pursuant to this section shall contain or be accompanied by sufficient particulars to inform the tribunal and the veterinary surgeon concerned of the matter alleged in the application.
- (3) Where the tribunal is satisfied that the veterinary surgeon has been convicted of an offence, whether in Queensland or elsewhere and whether indictable or not, of such a nature that it renders the veterinary surgeon unfit to practise veterinary science the tribunal may order that the veterinary surgeon's name be removed from the register of veterinary surgeons.
- (4) In proceedings brought pursuant to this section the tribunal shall have regard to the facts and circumstances surrounding the commission of the offence of which it is alleged that the veterinary surgeon concerned has been convicted and which are adduced in evidence before it.

22D Where veterinary surgeon medically unfit

- (1) If it comes to the notice of the board, whether by reason of an investigation conducted by it or otherwise, that a veterinary surgeon may be medically unfit to practise veterinary science it may appoint a committee consisting of medical practitioners (the *committee*) to decide whether or not the veterinary surgeon is medically fit to practise veterinary science.
- (2) The board may, by written notice given to the veterinary surgeon, require the veterinary surgeon to appear before the committee and on being so required the veterinary surgeon shall report to the committee at a time and place specified in the notice and shall submit himself or herself to examination

by the committee and to such tests and other examinations as the committee may require.

- (3) Upon completing its examination of the veterinary surgeon and considering the results of the tests and other examinations the committee shall report to the board on the veterinary surgeon's medical fitness to practise veterinary science.
- (4) Where the veterinary surgeon fails to report to the committee or fails to submit himself or herself when and as required pursuant to subsection (2), the committee shall report the veterinary surgeon's failure to the board.
- (5) Where the committee's report states that the veterinary surgeon is medically unfit to practise veterinary science or failed to report to it or failed to submit himself or herself to a test or examination when and as required pursuant to subsection (2), the board may by notice in writing given to the veterinary surgeon call upon the veterinary surgeon to show cause before the tribunal at a time and place specified in the notice as to why the veterinary surgeon's name should not be removed from the register of veterinary surgeons.
- (6) If at the time and place specified in the notice given under subsection (5) or at the time and place to which the proceedings to show cause are adjourned, the veterinary surgeon to whom the notice was given fails to appear or, having appeared, fails to show to the satisfaction of the tribunal that the veterinary surgeon is medically fit to practise veterinary science, the tribunal may order that the veterinary surgeon's name be removed from the register of veterinary surgeons.

22E Orders of tribunal for misconduct in a professional respect

- (1) If the tribunal decides a veterinary surgeon has engaged in misconduct in a professional respect, it may—
 - (a) order that the veterinary surgeon's name be removed from the register of veterinary surgeons; or

[s 22F]

- (b) order that the veterinary surgeon's registration as a veterinary surgeon be suspended for a specified period; or
 - (c) order that the veterinary surgeon pay to the board by way of penalty a specified sum of money in no case exceeding 40 penalty units; or
 - (d) admonish or reprimand the veterinary surgeon.
- (2) An order made pursuant to subsection (1)(c) may contain a direction that the registration of the veterinary surgeon concerned be suspended for a specified period if the veterinary surgeon fails to pay the sum of money to the board within a specified time and, if the money is not paid within that time, the veterinary surgeon's registration as a veterinary surgeon shall be suspended accordingly.
- (3) Suspension pursuant to subsection (2) shall be in addition to and not in lieu of payment of the sum of money.

22F Misconduct in a professional respect

Without limiting the ways a veterinary surgeon may engage in misconduct in a professional respect, a veterinary surgeon is engaging in *misconduct in a professional respect* if the veterinary surgeon—

- (a) is habitually drunk or is addicted to any deleterious drug; or
- (b) conducts any veterinary premises or other place for the practice of veterinary science where the veterinary surgeon himself or herself is not in full-time attendance thereat, unless a veterinary surgeon employed by him or her is in full-time attendance thereat for the purpose of practice and supervision during the hours at which such premises are open for the practice of veterinary science, and the name of such veterinary surgeon employed by him or her is conspicuously posted up or indicated on the premises by means of a name plate or other device in letters of equal dimensions to those of the veterinary surgeon's name; or

- (c) signs or gives in his or her professional capacity a certificate, notice, report or like document that is incomplete or is false or misleading in a material respect; or
- (d) contravenes or fails to comply with, or counsels, procures, aids or abets another person to contravene or fail to comply with, or does or omits to do any act for the purpose of enabling another person to contravene or fail to comply with, any Act or other law with respect to dangerous drugs whether or not the contravention or failure to comply is the subject of court proceedings; or
- (e) practises fraud or deception in the practice of his or her profession; or
- (f) is negligent or incompetent in the practice of his or her profession; or
- (g) is convicted of an offence involving cruelty to an animal; or
- (h) fails to keep the premises on which the veterinary surgeon practises his or her profession and all equipment contained therein in a clean and sanitary condition; or
- (i) fails to keep such records as are prescribed or so far as are not prescribed as the board directs; or
- (j) assaults, resists, obstructs or hinders or threatens or intimidates a member or deputy member of the board or any officer of the board, in the exercise of his or her powers under this Act; or
- (k) directs or allows a person who is not a veterinary surgeon to practise veterinary science in relation to an animal under the veterinary surgeon's care; or
- (l) holds out that a person who is not a veterinary surgeon may practise veterinary science; or
- (m) conducts a veterinary practice at premises other than veterinary premises; or

- (n) does not comply with a condition of an approval given under part 4A.

22FA Board to notify interstate registering authorities of disciplinary action

- (1) If, under section 22C, 22D or 22E, the tribunal makes an order about a veterinary surgeon, or admonishes or reprimands a veterinary surgeon, the board must give each registering authority of another State written notice of—
 - (a) the order, admonishment or reprimand; and
 - (b) for an order under section 22C or 22D—the grounds on which the order was made; and
 - (c) for an order, admonishment or reprimand under section 22E—the details of the misconduct for which the order, admonishment or reprimand was made or given.
- (2) If the board takes action under section 22A(1)(a) or (b) in relation to a veterinary surgeon, the board must give each registering authority of another State written notice of—
 - (a) the action; and
 - (b) the details of the misconduct for which the action was taken.
- (3) A notice under subsection (1) or (2) must be given as soon as practicable after the order, admonishment or reprimand was made or given or the action was taken.

Division 3 Miscellaneous

22H Review of particular decisions

Each of the following persons may apply, as provided under the QCAT Act, to the tribunal for a review of the decision stated for the person—

-
- (a) a person whose application to be registered as a veterinary surgeon is refused by the board, on any ground other than that the person does not possess the academic qualifications required to be registered as a veterinary surgeon;
 - (b) a person whose application for approval to use premises as veterinary premises has been granted subject to a condition under section 25D, other than a condition mentioned in section 25G(2);
 - (c) a person whose application for approval to use premises as veterinary premises has been refused under section 25E;
 - (d) a person whose approval to use premises as veterinary premises has been amended, suspended or cancelled under section 25J(3).

23 Surrender of certificate

- (1) A person whose name has been removed from a register under section 21(1)(a), (b) or (c) or whose registration as a veterinary surgeon has been suspended must, within 14 days from the date of receipt by that person of the notification of removal or suspension, surrender to the board every certificate of registration issued to the person under this Act.

Maximum penalty—10 penalty units.

- (2) A person whose name has been removed from the register of veterinary surgeons under section 21(1)(d) must, if asked in writing by the board, and within 14 days after receiving the request, give to the board each certificate of registration issued to the person under this Act.

Maximum penalty—10 penalty units.

- (3) A requirement under this section does not apply to a person for a certificate of registration if the board is satisfied, on evidence satisfactory to the board, that the certificate has been lost or destroyed.

24 Restoration of name

- (1) Where the board removes the name of any person from a register kept pursuant to this Act, the name of that person shall not be again entered on the register except by direction of the board or by order of the tribunal.
- (2) The board may if it thinks fit in any case restore to a register kept pursuant to this Act any name removed therefrom by order of the tribunal without payment of fee or on payment of such fee, not exceeding the registration fee, as the board may direct.

Part 4A Approvals to use premises as veterinary premises

Division 1 Preliminary

25 Definition for pt 4A

In this part—

disqualifying offence means any of the following offences, for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has not expired or been revived—

- (a) an indictable offence, whether dealt with on indictment or summarily;
- (b) an offence against this Act;
- (c) an offence against the *Animals Protection Act 1925* relating to the care or protection of animals or an animal welfare offence within the meaning of the *Animal Care and Protection Act 2001*;

Editor's note—

The *Animals Protection Act 1925* was repealed by 2001 No. 64s 219, now see *Animal Care and Protection Act 2001*.

- (d) an offence against a law of the Commonwealth or another State if the act or omission that constitutes the offence would, if it happens in Queensland, be an offence mentioned in paragraph (c);
- (e) an offence relating to obtaining, administering, dispensing, prescribing or selling a drug or poison as prescribed under a regulation.

Division 2 Obtaining approvals

25A Applying for approval

- (1) A person may apply to the board for approval to use premises as veterinary premises.
- (2) The application must be—
 - (a) in the approved form; and
 - (b) supported by enough information to enable the board to decide the application; and
 - (c) accompanied by the fee prescribed under a regulation.

25B Additional information for application

The board may, by written notice given to the applicant, require the applicant to—

- (a) give the board a stated document or information relevant to the application; or
- (b) allow a member or officer of the board to inspect the premises, including, for example, fittings and equipment at the premises.

25C Deciding application

The board must consider the application and either grant or refuse it within 28 days after the last of the following events to happen—

[s 25D]

- (a) the board receives the application;
- (b) the board receives all necessary information to decide the application;
- (c) if, under section 25B(a), the board requires a document or information—the board receives the document or information;
- (d) if, under section 25B(b), the board requires premises to be inspected—the premises are inspected under that section.

25D Grant of application

If the board decides to grant the application, it must, within 14 days after making the decision, give the applicant—

- (a) the approval; and
- (b) if the board decides to impose conditions on the approval, other than a condition mentioned in section 25G(2)—an information notice.

25E Refusal of application

If the board decides to refuse the application, it must, within 14 days after making the decision, give the applicant an information notice.

25F Criteria for decision

The board may refuse to grant the application only if satisfied—

- (a) the premises are not suitable for use as veterinary premises having regard to the standards prescribed or decided under section 29A for conducting veterinary premises; or

Editor's note—

A copy of the standards is available at the board's offices at 80 Ann Street, Brisbane.

- (b) a veterinary surgeon will not be practising veterinary science at the premises; or
- (c) if the applicant is an individual—the applicant has been convicted of a disqualifying offence; or
- (d) if the applicant is a corporation—any of the corporation's executive officers has been convicted of a disqualifying offence.

Division 3 Conditions

25G Conditions of approvals

- (1) The board may impose on the approval the reasonable conditions the board decides, including, for example, conditions about the following—
 - (a) the equipment used or intended to be used at the premises;
 - (b) hygiene practices, or the safe storage of drugs, at the premises;
 - (c) the qualifications or skills required of a person working at the premises;
 - (d) the number of staff employed at the premises;
 - (e) the branches of veterinary science that may be practised at the premises.
- (2) Without limiting subsection (1), the approval must state that the approval holder must allow a member or officer of the board to enter the premises stated in the approval to inspect the premises, including, for example, fittings, equipment or records at the premises, for compliance with the conditions of the approval.
- (3) However, the member or officer may enter the premises only when the premises are open for carrying on business or otherwise open for entry.

25J Amendment, suspension or cancellation—procedure

- (1) If the board proposes to amend, suspend or cancel an approval, the board must give the approval holder a written notice stating each of the following—
 - (a) the action (the *proposed action*) the board proposes taking under this section;
 - (b) the grounds for the proposed action;
 - (c) the facts and circumstances that are the basis for the grounds;
 - (d) if the proposed action is to amend the approval—the proposed amendment;
 - (e) if the proposed action is suspension of the approval—the suspension period;
 - (f) that the holder may make, within a stated period, written representations to show why the proposed action should not be taken.
- (2) The stated period must end at least 28 days after the holder is given the notice.
- (3) If, after considering all representations made within the stated period, the board still believes a ground exists to take the proposed action, the board may—
 - (a) if the proposed action is to amend the approval—amend the approval; or
 - (b) if the proposed action is to suspend the approval for a stated period—suspend the approval for no longer than the proposed suspension period; or
 - (c) if the proposed action is to cancel the approval—cancel the approval or suspend it for a period.
- (4) This section does not apply if the approval is amended under section 25H(a).

25K Notice of amendment, suspension or cancellation

- (1) The board must, as soon as practicable after making a decision under section 25J(3), give the approval holder an information notice.
- (2) The decision takes effect on—
 - (a) the day the notice is given; or
 - (b) if a later day is stated in the notice—the stated day.

Part 4B Offence provisions

25L Conducting veterinary practice

A person must not conduct a veterinary practice other than at veterinary premises.

Maximum penalty—40 penalty units.

25M Persons who must not practise veterinary science

- (1) A person who is not a veterinary surgeon must not practise veterinary science.
Maximum penalty—40 penalty units.
- (2) However, a person does not commit an offence against subsection (1) if—
 - (a) the person practises veterinary science other than for fee or reward; or
 - (b) the person—
 - (i) is undertaking a course of study, or a qualifying examination, in veterinary science approved by the board; and
 - (ii) practises veterinary science under the supervision of a veterinary surgeon.

25N Allowing or directing person who is not a veterinary surgeon to practise veterinary science

- (1) A veterinary surgeon must not allow or direct another person who is not a veterinary surgeon to practise veterinary science in relation to an animal under the veterinary surgeon's care.

Maximum penalty—40 penalty units.

- (2) However, a veterinary surgeon does not commit an offence against subsection (1) if—
- (a) the other person is undertaking a course of study, or a qualifying examination, in veterinary science approved by the board; and
 - (b) in practising veterinary science in relation to the animal, the other person acts under the supervision of the veterinary surgeon.

25O Directing veterinary surgeon to practise veterinary science

A person in control of veterinary premises must not direct a veterinary surgeon to practise veterinary science in a way that would constitute misconduct in a professional respect.

Maximum penalty—40 penalty units.

25P Claims about being a veterinary surgeon

- (1) A person who is not a veterinary surgeon must not—
- (a) claim, or hold himself or herself out, to be a veterinary surgeon; or
 - (b) allow himself or herself to be held out as a veterinary surgeon.

Maximum penalty—40 penalty units.

- (2) A person must not hold out another person as a veterinary surgeon if the person knows or ought reasonably to know the other person is not a veterinary surgeon.

Maximum penalty—40 penalty units.

25Q Using titles etc.

- (1) A person who is not a veterinary surgeon must not use—
 - (a) a title that consists of, or includes, the words ‘veterinary surgeon’ or an abbreviation of the words; or
 - (b) another title, name, initial or word suggesting, in the context in which it is used, that the person is a veterinary surgeon or is practising veterinary science.

Maximum penalty—40 penalty units.

- (2) A person who is not a veterinary specialist must not use—
 - (a) a title that consists of, or includes, the words ‘veterinary specialist’ or an abbreviation of the words; or
 - (b) another title, name, initial or word suggesting, in the context in which it is used, that the person is a veterinary specialist.

Maximum penalty—40 penalty units.

26 Notice about change in contact information

- (1) If a veterinary surgeon’s contact information changes, the veterinary surgeon must, within 21 days after the change, give the board written notice of the change unless the veterinary surgeon has a reasonable excuse.

Maximum penalty—10 penalty units.

- (2) In this section—

veterinary surgeon does not include a veterinary practitioner.

27 Veterinary surgeon to provide emergency contact details

- (1) If the registrar does not have the emergency contact details for a veterinary surgeon, the registrar may, by written notice given to the veterinary surgeon, ask the veterinary surgeon to give the registrar the emergency contact details.

-
- (2) A veterinary surgeon must comply with a notice given under subsection (1) within 21 days after receiving it, unless the veterinary surgeon has a reasonable excuse.
Maximum penalty—10 penalty units.
 - (3) In this section—
veterinary surgeon does not include a veterinary practitioner.

Part 5 Miscellaneous

29A Control of veterinary premises

Veterinary premises shall be equipped, controlled, managed and operated in such manner as is prescribed or so far as not prescribed as the board decides.

29B Allowances and expenses

- (1) Subject to subsection (2), each member of the board shall be paid such fees and allowances as the Governor in Council approves from time to time.
- (2) A member who is a public service officer must not be paid a fee or allowance if the officer acts as a member during the officer's ordinary hours of duty as a public service officer.
- (3) Each member of the board shall be paid such expenses as are necessarily incurred by the member in the discharge of his or her duties as a member and as the Minister approves.

29C Registrar must give emergency contact details to chief executive

- (1) This section applies if the chief executive, or a chief executive of a public sector unit prescribed under a regulation (a *prescribed chief executive*), considers it is necessary to contact a veterinary surgeon to give the veterinary surgeon information about controlling, eradicating or preventing the spread of—

- (a) prohibited matter or restricted matter under the *Biosecurity Act 2014*; or

Notes—

- 1 See the *Biosecurity Act 2014*, schedule 1 or schedule 2.
- 2 See also the note to the *Biosecurity Act 2014*, schedules 1 and 2.

- (b) biosecurity matter the subject of a biosecurity emergency order under the *Biosecurity Act 2014*; or
- (c) controlled biosecurity matter under the *Biosecurity Act 2014*.
- (2) The chief executive or a prescribed chief executive may ask the registrar to give the chief executive or prescribed chief executive the emergency contact details for the veterinary surgeon.
- (3) The registrar must comply with the request.
- (4) The chief executive or prescribed chief executive may only use the emergency contact details for a veterinary surgeon for a purpose mentioned in subsection (1).
- (5) In this section—
veterinary surgeon does not include a veterinary practitioner.

30 Penalty for forging registration

Any person who wilfully makes or causes to be made any false entry in or falsification of the register, and any person who wilfully procures or attempts to procure himself, herself or any other person to be registered under this Act by making or producing, or causing to be made or produced, any false or fraudulent representation or declaration, either verbally or in writing, and any person aiding or assisting therein, is guilty of an offence punishable, on conviction, by a penalty of 20 penalty units.

32 Evidence

- (1) In any proceeding by or on behalf of the board under this Act it shall not be necessary to prove the appointment or election of the members, chairperson, or registrar of the board.
- (2) A writing certified by the registrar to be a true copy of or a true extract from any register, book, certificate, notice, list, declaration, statement, document, or writing of any nature whatsoever in the custody of the board or of any officer of the board, shall for all purposes be prima facie evidence of the original of which it purports to be a copy or extract, and shall be receivable in evidence to the same extent as the original.
- (3) A certificate purporting to be that of the registrar as to—
 - (a) an order or decision made by the board; or
 - (b) an amount owing to the board pursuant to an order of the board;

shall upon its production be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein.

33 Board may sue

- (1) The board may in its own name, by its registrar or any person thereunto authorised in writing under the hand of the chairperson, institute, carry on, prosecute, and defend any action, complaint, information, or proceeding whatsoever.
- (1A) Every court of law shall take judicial notice of the signature of the chairperson to any such authorisation.
- (2) Where the tribunal or the board has ordered that a sum of money or costs be paid to the board and the order is not complied with the amount of such sum or costs outstanding shall be a debt due and owing by the person against whom the order was made to the board and may be sued for and recovered in a court of competent jurisdiction.

33A Reports

- (1) The board shall prepare a written report in relation to all matters dealt with by it under section 22A.
- (2) The report shall be lodged with the registrar of the board.
- (3) Unless otherwise authorised by the board, a report referred to in subsection (1) shall not be made available to any person other than the Minister or a person acting in aid of the Minister, a member of the tribunal, a member or officer of the board or the person to whom it relates or that person's solicitor.
- (4) The board may publish the whole or any part of a report to which this section applies in such manner as it thinks fit.

33C Veterinary surgeon to produce records

- (1) The board may, by notice in writing given to the veterinary surgeon, direct the veterinary surgeon to produce to it, within the time specified in the notice, such records as relate to his or her practice of veterinary science as are specified in the notice.
- (2) A veterinary surgeon who fails to comply with a direction of the board under subsection (1) commits an offence.
- (3) Where records are produced to the board under this section, the board may—
 - (a) retain possession of those records for such period as it considers necessary for the purposes of the board; and
 - (b) inspect, make copies of, or take extracts from, those records.
- (4) The board shall, during the period it retains possession of any records in accordance with subsection (3), permit a person otherwise entitled to possession of those records to inspect, make copies of, and take extracts from, the records at such places and times as the board thinks appropriate.

33D Power of entry etc.

- (1) A prescribed person may at any reasonable time enter upon any land and into any premises on land upon or in which the prescribed person suspects, on reasonable grounds, that an act, procedure, matter or thing that forms part of veterinary science, is being or has been done or performed in order to ascertain whether an offence against this Act is being or has been committed or whether any veterinary surgeon has engaged or is engaging in misconduct in a professional respect.
- (2) Before a prescribed person enters a part of any premises which part is used exclusively as a dwelling house the prescribed person shall, save where the prescribed person has the permission of the occupier of that part to his or her entry, apply to a stipendiary magistrate for, and obtain from the stipendiary magistrate, a warrant to enter.
- (2A) An application to a stipendiary magistrate for the issue of a warrant—
 - (a) may be heard at any place and, subject to this section, in such manner as the magistrate thinks fit; and
 - (b) may be made—
 - (i) in person; or
 - (ii) where it appears to the prescribed person that, because of distance, urgency or other circumstances, it is impracticable for the person to apply in person—by means of telephone, radio, telex or other facility for distance communication.
- (3) A stipendiary magistrate who is satisfied upon the application of a prescribed person that there is reasonable cause to suspect that an act, procedure, matter or thing that forms part of veterinary science is being or has been done or performed in any premises may issue a warrant directed to the prescribed person to enter the premises at such hours of the day or night as the warrant specifies or, if the warrant so specifies, at any time.
- (4) In issuing a warrant, a stipendiary magistrate shall—

- (a) specify in the warrant the powers that may be exercised by the prescribed person; and
 - (b) record on the warrant the matters of fact on which the magistrate has relied to justify the issue of the warrant.
- (4A) A warrant remains in force for a period of 21 days from the date of issue and is lawful authority for the prescribed person to whom it is directed and all persons acting in aid of that person—
 - (a) to enter the premises specified in the warrant; and
 - (b) subject to the terms of the warrant, to exercise the powers conferred upon a prescribed person under this Act.
- (4B) Where an application for a warrant is made in person, in deciding whether to issue the warrant, the stipendiary magistrate shall not rely on any statement of facts unless it is provided by means of an oral or written statement made under oath or affirmation or under other sanction authorised by law.
- (4C) Where an application for a warrant is made in a manner referred to in subsection (2A)(b)(ii), the stipendiary magistrate shall not issue the warrant unless the magistrate—
 - (a) informs the applicant of the matters of fact on which the magistrate relies to justify the issue of the warrant; and
 - (b) obtains from the applicant an undertaking that the applicant will furnish to the stipendiary magistrate, as directed by the magistrate, as soon as is practicable a written statement made on oath or affirmation or under other sanction authorised by law verifying those matters of fact.
- (4D) Where, pursuant to an application for a warrant made in a manner referred to in subsection (2A)(b)(ii), the stipendiary magistrate issues the warrant—
 - (a) the magistrate shall—
 - (i) inform the applicant that the magistrate has done so and of the terms of the warrant; and

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- (ii) within 7 days of the issue of the warrant, send the warrant to the Minister; and
 - (b) as soon as practicable, and, in any event, within 7 days, after the issue of the warrant, the applicant shall furnish to the magistrate a written statement in compliance with the undertaking given by the applicant under subsection (4C)(b); and
 - (c) a form of warrant completed by the applicant substantially in the terms of the warrant issued by the magistrate and stating—
 - (i) the date on which and the place at which the warrant was issued; and
 - (ii) the name of the stipendiary magistrate who issued the warrant;
- is for all purposes to be taken to be the warrant issued and to have force and effect accordingly.
- (4E) If a person to whom subsection (4D)(b) applies fails to comply with that subsection, the warrant issued under this section is to be taken to be cancelled upon the expiration of the period of 7 days specified in that subsection.
 - (4F) The failure of a stipendiary magistrate to send a warrant to the Minister in accordance with subsection (4D)(a)(ii) does not affect the validity, force or effect of the warrant.
 - (5) A prescribed person who enters upon any land or into any premises pursuant to this section or to a warrant issued pursuant to this section may, subject, in the case of entry pursuant to a warrant, to the terms of the warrant—
 - (a) search the land or premises and examine anything found thereon or therein;
 - (b) interview any person found thereon or therein;
 - (c) collect and take away samples and specimens of anything found thereon or therein;
 - (d) photograph the land or premises or any part thereof and anything found thereon or therein;

- (e) seize and take away records which, in the prescribed person's opinion formed on reasonable grounds, may contain evidence in respect of an offence against this Act or of misconduct in a professional respect.
- (6) In this section premises that are used as a dwelling house do not include the curtilage of those premises.
- (7) Any person, other than a veterinary surgeon, who assaults, resists, obstructs or hinders, threatens or intimidates a prescribed person in the exercise of his or her powers under this section commits an offence against this Act.
Maximum penalty—20 penalty units.
- (8) In this section—
prescribed person means a member or deputy member of the board or any officer of the board.

33E Authorisation of inspectors to carry out certain tests

- (1) Where the board—
 - (a) considers that it is uneconomical or inappropriate for the tuberculosis testing of animals to be carried out by a veterinary surgeon; and
 - (b) recommends to the Minister that an authorisation be given for the purposes of this section;the Minister may, by instrument, authorise an inspector under the *Biosecurity Act 2014* to carry out tuberculosis testing of animals during a specified period at a specified place or specified places.
- (2) The power of an inspector to carry out tuberculosis testing of animals pursuant to this section does not derogate from, but is in addition to, any power the inspector may have under the *Biosecurity Act 2014* to carry out that testing.

34 Savings

Nothing in this Act shall prejudice or affect or be deemed to prejudice or affect the *Health Act 1937*.

35 Penalties

- (1) All penalties and fees imposed by or pursuant to this Act may be recovered in a summary way by complaint under the *Justices Act 1886*.
- (2) Every person guilty of any breach or contravention of this Act for which no other penalty is provided shall be liable to a penalty not exceeding 10 penalty units.
- (3) Any proceedings under this Act may be instituted within 12 months after the offence is committed, or within 12 months after the discovery of the offence, whichever is the later period.

36 Penalties etc. to be paid into board's funds

All penalties and fees recovered by the board under this Act shall be paid to the board and become part of its funds.

36A Approval of forms

The chief executive may approve forms for use under the Act.

37 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may be made about the following matters—
 - (a) the functions and powers of the registrar and officers appointed by the board;
 - (b) registers and the manner of their keeping and the titles (including titles approved by the board in specific cases

- on the application of a veterinary surgeon), descriptions, qualifications and particulars to be inserted therein;
- (c) the forms to be used for the purposes of this Act and the particular purposes for which those forms shall respectively be used;
 - (d) proceedings of the board;
 - (e) fees payable under this Act, the purposes for which those fees are payable, the variation of fees for different classes of veterinary surgeons;
 - (f) exemption from payment of fees and the persons to be so exempted;
 - (g) fees and allowances payable to examiners and other persons under this Act;
 - (h) applications to and approvals by the board;
 - (i) penalties not exceeding 10 penalty units for contravention of or failure to comply with a regulation;
 - (j) elections held under this Act;
 - (k) proceedings in connection with complaints or allegations made against veterinary surgeons in respect of prohibited practices or for alleged misconduct in a professional respect;
 - (l) the holding of examinations and the persons required or eligible to sit for them; fees payable by examinees;
 - (m) appointment of examiners;
 - (n) the continuing education of veterinary surgeons, including the nature and extent of that education;
 - (o) the rules of professional conduct for veterinary surgeons;
 - (p) the common seal of the board and the attesting of documents by or on behalf of the board;
 - (q) inspection, operation, control and management of veterinary premises;

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- (r) care of animals at veterinary premises;
 - (s) equipment and staff thereof;
 - (t) methods of hygiene and standards of cleanliness therein;
 - (u) maintenance of records in connection therewith;
 - (v) qualifications and courses of training for animal nurses and animal attendants, their functions and duties and regulation and control thereof;
 - (w) the universities, colleges or like bodies and the degrees, diplomas or certificates granted by them that the Governor in Council may recognise in connection with applications for registration of persons as veterinary surgeons, and for approvals pursuant to section 18A;
 - (x) the issue of certificates with respect to animals on which veterinary science has been done or performed;
 - (y) the circumstances in which and the purposes for which those certificates may be issued;
 - (z) the persons who may sign them.

Part 6 Transitional provisions

Division 1 Provisions for Primary Industries Legislation Amendment Act 2001

38 Continuation of board membership

- (1) This section applies to a person who, immediately before the commencement of the section, is a member.
- (2) The member—
 - (a) continues in office; and
 - (b) is taken to be appointed as a member under section 4C; and

- (c) holds office on the conditions not provided for by this Act that are decided by the Minister.
- (3) Also, the member who, immediately before the commencement of this section, is the president of the board is taken to be the chairperson.

39 Continuing effect of approvals

- (1) This section applies to an approval—
 - (a) given under former section 25A; and
 - (b) in force immediately before the commencement of this section.
- (2) From the commencement—
 - (a) the approval and any conditions of the approval have effect as if it were an approval given under part 4A; and
 - (b) the approval is taken to be subject to a condition that the approval holder must allow a member or officer of the board to enter the premises stated in the approval to inspect the premises, including, for example, fittings, equipment or records at the premises, for compliance with the conditions of the approval.
- (3) In this section—

former section 25A means section 25A as in force from time to time before its repeal by the *Primary Industries Legislation Amendment Act 2001*.

Division 2 Provision for Primary Industries Legislation Amendment Act 2006

40 Particular proceedings before the tribunal

- (1) This section applies to a proceeding before the tribunal that was started before the commencement and has not been decided by the tribunal.

- (2) For hearing, or continuing to hear, and making a decision on the proceeding, this Act as in force before the commencement continues to apply as if the *Primary Industries Legislation Amendment Act 2006*, part 8 had not commenced.
- (3) In this section—
commencement means the day this section commences.

Schedule Dictionary

section 2

animal means an animal, bird, fish or reptile, of any species.

animal attendant means a person other than a veterinary surgeon who, under the supervision of a veterinary surgeon, engages in the care and handling of animals.

animal nurse means a person who has successfully completed a course of training approved by the board and who performs in relation to veterinary science such duties as are prescribed.

approved form means a form approved under section 36A.

board means the Veterinary Surgeons Board of Queensland established under this Act.

chairperson means the chairperson of the board.

contact information, for a veterinary surgeon or an applicant for registration as a veterinary surgeon, means the veterinary surgeon's or applicant's business address, postal address, residential address and emergency contact details.

convicted means a finding of guilt, or the acceptance of a plea of guilt, by a court, whether or not a conviction is recorded.

elected member means a member of the board elected under section 8.

eligible veterinary surgeon means a veterinary surgeon who is registered as a veterinary surgeon under this Act and whose name remains on the register of veterinary surgeons.

emergency contact details, for a veterinary surgeon or an applicant for registration as a veterinary surgeon, means a telephone number and email address at which the veterinary surgeon or applicant may be contacted immediately, during or outside of ordinary business hours, for a purpose mentioned in section 29C.

information notice means a notice complying with the QCAT Act, section 157(2).

member means a member of the board.

registering authority, of another State, means the authority responsible for the registration of veterinary practitioners in that State.

register of veterinary specialists means the register of veterinary specialists, Queensland.

register of veterinary surgeons means the register of veterinary surgeons, Queensland.

registrar means the registrar of the board.

tribunal means QCAT.

veterinary practitioner—

- 1 *Veterinary practitioner* means a person authorised under a law of another State to carry out, in that State, activities substantially the same as the activities that may be carried out by a person registered as a veterinary surgeon under this Act.
- 2 However, a *veterinary practitioner* does not include a person who is registered as a veterinary surgeon on application under this Act and whose name remains on the register of veterinary surgeons.

veterinary premises means premises approved for use as veterinary premises under part 4A.

veterinary specialist means—

- (a) a veterinary surgeon who is registered on application under this Act as a veterinary specialist for a veterinary specialty and whose name remains on the register of veterinary specialists for the veterinary specialty; or
- (b) a person who is taken to be registered as a veterinary specialist under section 19CA.

veterinary specialty means a branch of veterinary science prescribed under this Act to be a veterinary specialty.

veterinary surgeon means a person who—

Schedule

- (a) is registered as a veterinary surgeon on application under this Act and whose name remains on the register of veterinary surgeons; or
- (b) is taken to be registered as a veterinary surgeon under section 18B.